

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE PORK ANTITRUST
LITIGATION

Case No. 0:18-cv-1776 (JRT/JFD)

This Document Relates To:
All Actions

**STIPULATION REGARDING COMPLETION
OF CERTAIN DISCOVERY AFTER THE FACT DISCOVERY DEADLINE**

Direct Purchaser Plaintiffs; Commercial Indirect Purchaser Plaintiffs; Consumer Indirect Purchaser Plaintiffs; the Commonwealth of Puerto Rico; and Direct Action Plaintiffs (collectively “Plaintiffs”), and Defendants Agri Stats, Inc. (“Agri Stats”); Clemens Food Group, LLC, Clemens Family Corporation (“Clemens”); Hormel Foods Corporation, Hormel Foods, LLC (“Hormel”); JBS USA Food Company (“JBS”); Seaboard Foods, LLC (“Seaboard”); Smithfield Foods, Inc. (“Smithfield”); Triumph Foods, LLC (“Triumph”); and Tyson Foods, Inc., Tyson Prepared Foods, Inc., Tyson Fresh Meats, Inc. (“Tyson”) (collectively “the Stipulating Defendants”) (and together, the “Stipulating Parties”), reserving all rights, hereby stipulate as follows and move as follows:

1. Plaintiffs and Clemens stipulate and move as follows:

a. On September 26, 2022, Plaintiffs and Clemens agreed to schedule the deposition of Clemens witness George Wean for November 15, 2022, based on the witness’s availability. Plaintiffs and Clemens are unable to schedule the deposition of Mr. Wean prior to the close of fact discovery.

b. Plaintiffs and Clemens respectfully request the Court to order that Plaintiffs may take the deposition of Mr. Wean on November 15, 2022, or another mutually agreeable date and time after the close of fact discovery.

c. Plaintiffs discussed scheduling the deposition of Clemens witness Craig Edsill during the summer and fall of 2022. They initially scheduled Mr. Edsill's deposition for September 30, 2022, which was subsequently rescheduled to October 27, 2022, and then November 1, 2022, to accommodate his schedule.

d. Plaintiffs and Clemens respectfully request the Court to order that Plaintiffs may take the deposition of Mr. Edsill after the close of fact discovery on November 1, 2022, or another mutually agreeable date and time.

2. Plaintiffs and Hormel stipulate and move as follows:

a. On September 16, 2022, Plaintiffs served a Rule 30(b)(6) notice and schedule of topics for examination on Defendant Hormel, to take place by agreement on September 29, 2022, and October 25, 2022. Plaintiffs deposed Hormel for approximately 3.5 hours on September 29, 2022. Due to later-arising witness conflicts on October 25, 2022, Hormel subsequently requested, and Plaintiffs agreed, to complete the remaining portion of the Rule 30(b)(6) deposition on November 3, 2022.

b. Plaintiffs and Hormel respectfully request the Court to order that Plaintiffs may complete the noticed Rule 30(b)(6) deposition of Hormel after the close of fact discovery at a mutually agreeable date and time.

3. Plaintiffs and JBS stipulate and move as follows:

a. On September 26, 2022, Plaintiffs requested the deposition of JBS witness Ryan Andersland. On October 20, 2022, JBS counsel stated that Mr. Andersland's deposition would need to be rescheduled.

b. Plaintiffs and JBS respectfully request that the Court order that Plaintiffs may take the deposition of Mr. Andersland after the close of fact discovery at a mutually agreeable date and time.

4. Plaintiffs and Seaboard stipulate and move as follows:

a. On June 11, 2022, Plaintiffs requested the deposition of Seaboard witness Duke Sand. On October 12, 2022, the first part of Mr. Sand's deposition occurred. Plaintiffs, Seaboard and counsel for Mr. Sand are in discussions to schedule the second part of Mr. Sand's deposition.

b. Plaintiffs and Seaboard respectfully request that the Court order that Plaintiffs may complete the deposition of Mr. Sand after the close of fact discovery at a mutually agreeable date and time.

5. Plaintiffs and Smithfield stipulate and move as follows:

a. Plaintiffs served a Rule 30(b)(6) notice and schedule of topics for examination on Defendant Smithfield. Plaintiffs and Smithfield have been unable to schedule Smithfield's Rule 30(b)(6) deposition prior to the close of fact discovery. Plaintiffs will depose one of Smithfield's corporate representatives on November 17. The date for the other representative is still being negotiated.

b. Plaintiffs and Smithfield respectfully request the Court to order that Plaintiffs may take the noticed Rule 30(b)(6) deposition of Smithfield after the close of fact discovery at a mutually agreeable date and time.

6. Plaintiffs and Tyson stipulate and move as follows:

a. On September 16, 2022, Plaintiffs requested the deposition of Tyson witness Roel Andriessen. Due to Mr. Andriessen's schedule, Plaintiffs and Tyson were unable to schedule the deposition of Mr. Andriessen prior to the close of fact discovery.

b. Plaintiffs took Mr. Andriessen's deposition on November 2, 2022, and Plaintiffs and Tyson respectfully request that the Court order *nunc pro tunc* that Plaintiffs may take the deposition of Mr. Andriessen on November 2, 2022.

c. On September 9, 2022, Plaintiffs requested the deposition of Tyson witness Jay Krehbiel. Due to Mr. Krehbiel's schedule, Plaintiffs and Tyson were unable to schedule the deposition of Mr. Krehbiel prior to the close of fact discovery.

d. Plaintiffs and Tyson respectfully request that the Court order that Plaintiffs may take the deposition of Mr. Krehbiel on November 16, 2022, or at a mutually agreeable date and time after the close of fact discovery.

e. Plaintiffs served a Rule 30(b)(6) notice and schedule of topics for examination on Defendant Tyson. Plaintiffs and Tyson have been unable to schedule Tyson's Rule 30(b)(6) deposition prior to the close of fact discovery. Tyson have agreed the deposition shall occur from November 16-17, 2022.

f. Plaintiffs and Tyson respectfully request the Court to order that Plaintiffs may take the noticed Rule 30(b)(6) deposition of Tyson after the close of fact discovery on November 16-17, 2022, or at a mutually agreeable date and time.

7. The Stipulating Parties agree and move as follows:

a. The agreement for written discovery is as follows:

i. Defendants served interrogatories on Plaintiffs in 2021 (and on certain later-filing Direct Action Plaintiffs in 2022), and in their Responses and Objections, Plaintiffs objected to certain of such interrogatories on the grounds that they were premature contention interrogatories.

ii. Defendants served additional interrogatories on Plaintiffs in late September 2022.

iii. Defendants served requests for admission on Plaintiffs in late September 2022.

iv. Plaintiffs served interrogatories on Defendants in late September 2022.

v. By November 30, 2022, the Parties will identify any such interrogatory or request for admission to which they intend to stand on their prior objection(s) or to object in whole, without providing any substantive response. For the avoidance of doubt, a denial of a request for admission and/or answering an interrogatory pursuant to Rule 33(d) is a substantive response and need not be made by November 30, 2022.

vi. By January 18, 2023, the Parties will provide or amend substantive responses to any written discovery covered in subsections i., ii., iii., and/or iv. above, unless a written discovery request was identified pursuant to subsection v. above.

b. The deposition of Indiana Packers Corporation, to be taken pursuant to deposition subpoenas served by Plaintiffs and Defendants on September 16, 2022, may be taken at a mutually agreeable date and time on or before November 30, 2022.

c. As specified in the Parties' Joint Case Management Conference Statement for October 17, 2022 Case Management Conference and at the October 17, 2022 conference, the previously noticed depositions of certain DAPs listed by Defendants in the Joint Statement (at 3-4) may occur after the fact discovery deadline on agreed-upon or mutually agreeable dates and times. Specifically, 30(b)(1) and 30(b)(6) depositions of the following DAPs may occur after the fact discovery deadline on agreed upon or mutually agreeable dates and times: Target, Compass Group, Aramark, QSCC, Gordon Foods, Conagra Brands, Aldi, UniPro, Kraft, and U.S. Foods; Rule 30(b)(6) depositions of the following DAPs may occur after the fact discovery deadline on agreed upon or mutually agreeable dates and times: Wakefern, Hy-Vee, Albertson's, Howard B Samuels as Trustee for Central Grocers and Strack & Van Til, Winn-Dixie & Bi-Lo Holdings, BJ's, Giant Eagle, Cheney Brothers, Meijer, UNFI (including Supervalu, Associated Grocers of Florida, Unified Grocers, and Tony's Fine Foods), Nestle Purina PetCare Company, Nestle USA, Inc., and the Commonwealth of Puerto Rico; Rule 30(b)(1) depositions of the following DAPs may occur after the fact discovery deadline on agreed upon or mutually agreeable dates and times: Wakefern, Savemart, and Publix; and depositions of the

following DAPs may occur after the fact discovery deadline pursuant to agreement between counsel: Raley's and Dollar General. This stipulation will not impact any other dates in the litigation schedule.

d. The Stipulating Parties agree to comply with this Joint Stipulation pending the Court's approval.

e. The Stipulating Parties are simultaneously submitting a Proposed Order with this Joint Stipulation.

IT IS SO STIPULATED.

DATED: November 3, 2022

Respectfully submitted,

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